Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	File Number EB-02-AT-318
	)	
Coffee County Broadcasting, Inc.	)	NAL/Acct. No.200232480027
Licensee of WMSR, Manchester, Tennessee	)	
McMinnville, Tennessee	)	FRN 0003-7625-64
	)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: September 30, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* ("*NAL*"), we find Coffee County Broadcasting, Inc., licensee of radio station WMSR, Manchester, Tennessee, apparently liable for a forfeiture in the amount of seven thousand dollars ($7,000) for willful violation of Section 73.1125(a) of the Commission's Rules ("Rules").[1] Specifically, we find Coffee County Broadcasting, Inc. apparently liable for not maintaining a presence at its main studio during normal business hours.

II. BACKGROUND

2. On July 11, 2002, at 10:45 A.M. local time, and again at 1:50 P.M. local time, an agent of the Commission's Atlanta Field Office ("Atlanta Office") attempted an inspection of radio station WMSR's main studio located at the transmitter site in Manchester, Tennessee. The main studio office doors were locked and no lights were visible. There were no office hours denoted on the doors and no indication of why the office was closed. The agent called the listed telephone numbers for WMSR and received no answer.

3. On July 15, 2002, at 11:30 A.M., the agent again telephoned the station and received an answering service that confirmed that the answering service answers the WMSR telephones when no one is at the studio.

4. On July 18, 2002, the agent contacted WMSR's general manager by telephone who confirmed that the studio had been unstaffed. The general manager was unaware of the studio staffing requirements during normal business hours.

III. DISCUSSION

[1] 47 C.F.R. § 73.1125(a).

5. Section 73.1125(a) requires the licensee of a broadcast station to maintain a main studio at one of the following locations: (1) within the station's community of license; (2) at any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (3) within twenty-five miles from the reference coordinates of the center of its community of license. In adopting the main studio rules, the Commission explicitly informed permittees and licensees that compliance with the main studio rules required maintenance of a meaningful staff and management presence,[2] stating:

> A station must maintain a main studio which has the capability adequately to meet its function, as discussed above, of serving the needs and interests of the residents of the station's community of license. To fulfill this function, a station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous program transmission capability, and maintain a meaningful management and staff presence. Maintenance of production and transmission capability will allow broadcasters to continue, at their option, and as the marketplace demands, to produce local programs at the studio. A meaningful management and staff presence will help expose stations to community activities, help them identify community needs and interests and thereby meet their community service requirements.[3]

Subsequently, in its decision in *Jones Eastern of the Outer Banks, Inc.*,[4] the Commission further clarified the concept of a meaningful management and staff presence. The Commission specified that, at a minimum, a main studio must maintain full-time managerial and full-time staff personnel.[5] The Commission also stated that licensees need not have the same staff person and manager at the studio, as long as there was management and staff presence there during normal business hours.[6] With respect to management personnel, the Commission further clarified that they need not be "chained to their desks" but that they would be required to report to work at the main studio on a daily basis, spend a substantial amount of time there, and use the main studio as their "home base."[7] On July 11, 2002, Coffee County Broadcasting, Inc. did not maintain a presence at the main studio of WMSR(AM) during normal business hours. The main studio was completely unattended on July 11, 2002, at both 10:45 A.M. and 1:50 P.M local time. The station's general manager stated that the main studio was not staffed during normal business hours.

6. Based on the evidence before us, we find Coffee County Broadcasting, Inc. willfully[8] violated Section 73.1125(a) of the Rules by failing to maintain a presence at the main studio of WMSR(AM) during normal business hours.

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[2] *Main Studio and Program Origination Rules*, 3 FCC Rcd 5024 (1988); 53 FR 32899 (August 29, 1988).
[3] *Id.* at 5026 (footnotes omitted).
[4] 6 FCC Rcd 3615 (1991), *clarified*, 7 FCC Rcd 6800 (1992).
[5] *Id.*, 6 FCC Rcd at 3616.
[6] *Id*. at n. 2.
[7] *Id.*, 7 FCC Rcd at 6802.
[8] Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . ." *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

7. Pursuant to Section 1.80(b)(4) of the Rules,[9] the base forfeiture amount for violation of main studio rules is $7,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.[10] Considering the entire record and applying the factors listed above, this case warrants a $7,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,[11] and Sections 0.111, 0.311 and 1.80 of the Rules,[12] Coffee County Broadcasting, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of seven thousand dollars ($7,000) for willful violation of Section 73.1125(a) of the Rules by failing to maintain a presence at the main studio of WMSR(AM) during normal business hours.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Coffee County Broadcasting, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.[13]

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial

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[9] 47 C.F.R. § 1.80(b)(4).
[10] 47 U.S.C. § 503(b)(2)(D).
[11] 47 U.S.C. § 503(b).
[12] 47 C.F.R. §§ 0.111, 0.311, 1.80.
[13] *See* 47 C.F.R. § 1.1914.

documentation submitted.

13. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Coffee County Broadcasting, Inc., P. O. Box 759, McMinnville, Tennessee 37110.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau